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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,185	11/19/2001	Klaus Oldermann	RCA 89,512	8200

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EXAMINER
KLIMOWICZ, WILLIAM JOSEPH

ART UNIT	PAPER NUMBER
2652	7

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/988,185	Applicant(s) OLDERMANN ET AL.
	Examiner William J. Klimowicz	Art Unit 2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 April 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2,4,8-16 and 18-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *2,4,8,12-16 and 20* is/are allowed.

6)☒ Claim(s) *9-11,18 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *19 November 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. *09/311,247* .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicants' election with traverse of Specie V (FIG. 6) (which, according to the Applicants, corresponds to claims 9-11, 18 and 19) in Paper No. 6, filed April 21, 2003 is acknowledged. The traversal is on the ground(s) that there is no serous burden to the Examiner.

This is not found persuasive because the Examiner maintains that the search for 9 separate and distinct embodiments, as articulated in the restriction requirement (Paper No. 5), is a serious burden that would be placed upon the Examiner.

Additionally, it is noted that the Applicants did not traverse on the ground that the species are not patentably distinct. If the Applicants were to traverse on the ground that the species are not patentably distinct, the Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. If the Applicants were to include such a statement, the election requirement would be withdrawn. In either instance, however, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

The requirement is still deemed proper and is therefore made FINAL.

Claims 2, 4, 8, 12-16 and 20 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunfield et al. (US 5,587,617).

As per claim 9, Dunfield et al. (US 5,587,617) discloses a device for rotating inside of a disk player and/or recorder (50) a disk shaped data carrier (60) having an opening around a center of said disk shaped carrier (60) - FIG. 2, said device comprising: fixing means (including flat surface of hub (317); elongated shaft (316)) for removably fixing said data carrier (60) by inserting a part of said fixing means in said opening, said fixing means comprising an elongated part (316); driving means (including 320, 344 and coils (324)) for rotating said data carrier (60) by acting on said fixing means (including flat surface of hub (317); elongated shaft (316)), said driving means (320, 344, 324) being at least partly mechanically connected to said disk player and/or recorder (FIG. 3), and said driving means (320, 344, 324) comprising a rotor magnet (344) mounted on said elongated part (316) (note that shaft (316) is of integral construction with (317), which mounts magnets (344)) and a stator electro-magnet (coils 324) mounted on said player and/or recorder such that said rotor magnet (344) and said stator electro-magnet (324) cooperate as an electric motor (e.g., see COL. 6, lines 43-47); and centering means (tip end of (316) which makes point contact within base (312) - FIG. 3) for positioning said fixing means (including flat surface of hub (317); elongated shaft (316)) in a central position when said

driving means stops driving said data carrier (since any offset of elongated tip portion within its sleeve portion of (312), naturally returns the tip of elongated portion (316) to its lowermost seating within sleeve portion (312) due to the internally inclined inner surfaces under gravity - hence a centering means).

As per claim 10, said rotor magnet (344) is repulsed at a determined distance from said stator electro-magnet by magnetic forces when said driving means (320, 344, 324) drives said data carrier (60). This is due to the electrical coils (324) being energized such that a rotating magnetic filed causes magnetic poles of (344) to interact attractively and repulsively - via the known motor action).

As per claims 11 and 18, said elongated part (316) has a point contact with said player and/or recorder (through stator base (312)) such that a rotation axis (314) of said fixing means passes through said point contact - FIG. 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunfield et al. (US 5,587,617) in view of Elsing et al. (US 5,140,479).

See the description of Dunfield et al. (US 5,587,617), *supra*.

As per claim 19, Dunfield et al. (US 5,587,617) further shows wherein said centering means comprises a conical recess (recess within stator base sleeve (312)) which receives a tip shaped extremity from said fixing means (316).

With regard to claim 19, however, Dunfield et al. (US 5,587,617) does not expressly show the spindle tip elongated portion as being elastically mounted to said player and/or recorder.

Elsing et al. (US 5,140,479), however, teaches providing a spindle tip elongated portion (36) as being elastically mounted to said player and/or recorder (at 32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the elastically mounted elongated portion of the spindle, as taught by Elsing et al. (US 5,140,479) to the device of Dunfield et al. (US 5,587,617).

The rationale is as follows: one of ordinary skill in the art would have been motivated to provide the elastically mounted elongated portion of the spindle, as taught by Elsing et al. (US 5,140,479) to the device of Dunfield et al. (US 5,587,617) in order to eliminate static charge from a disk drive spindle with greatly reduced vibration (e.g., see COL. 1, lines 64-67 of Elsing et al. (US 5,140,479)).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

William J. Klimowicz
Primary Examiner
Art Unit 2652

WJK
May 19, 2003